

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LYNN A. GRACE,

Case No. 1:15-cv-01325

Plaintiff,

v

MONEY RECOVERY NATIONWIDE,
assumed name of NATIONWIDE
COLLECTION AGENCIES, INC.,

Defendant.

PLAINTIFF'S COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, Lynn A. Grace, by and through his attorneys, KONING & JILEK, P.C., and for his Complaint against the Defendant, states as follows:

JURISDICTION AND PARTIES

1. This is an action brought under the Fair Debt Collection Practices Act, 15 U.S.C. 1601, *et seq.*
2. Jurisdiction is conferred as this is a civil action arising under the laws of the United States pursuant to Title XXVIII, § 1331 of the United States Code.
3. Plaintiff is a citizen of the United States and resides at 610 Mall Drive, Apt. 101, Portage, Michigan 49024; this residence is within the jurisdiction of the Western District of the United States District Court in Michigan.
4. Defendant Money Recovery Nationwide, assumed name of Nationwide Collection Agencies, Inc., is a domestic profit corporation principally located and doing business in Lansing,

Michigan; it has an office in Lansing, Michigan, in which the claims of Plaintiff arise; Lansing, Michigan is within the Western District of the United States District Court of Michigan.

5. Defendant Money Recovery Nationwide (hereinafter referred to as "MRN") is a debt collector within the definitions of the Fair Debt Collection Practices Act (hereinafter referred to as "FDCPA").

6. Plaintiff Lynn A. Grace is a consumer within the definitions of the FDCPA.

7. Prior to her death, Plaintiff's wife, Ethel M. Grace, resided with Plaintiff.

8. On or about February 14, 2012, Ethel M. Grace died.

9. Plaintiff was appointed the decedent's personal representative on or about March 23, 2012, by the Kalamazoo County Probate Court.

10. Upon information and belief, at one point in time, Plaintiff Lynn A. Grace and Ethel M. Grace had accounts that were in collections with Defendant MRN.

11. All amounts and all accounts owed by Plaintiff Lynn A. Grace have been fully paid. See, Exhibit 1.

12. As part of his duties as personal representative, Plaintiff Lynn A. Grace published for creditors. See, Affidavit of Publication attached as Exhibit 2.

13. Defendant MRN nor any other creditor filed any claims against the Estate of Ethel M. Grace.

14. On May 12, 2014, counsel for Plaintiff Lynn A. Grace sent a letter, attached as Exhibit 3, to Defendant MRN.

15. Plaintiff's counsel is certain that MRN received this letter as he had telephone conferences with Sharon Miller, an employee of MRN thereafter, regarding the correspondence.

16. On November 4, 2015, Plaintiff's counsel followed up with another letter. See, Exhibit 4.

17. Plaintiff's counsel, on numerous occasions, has requested documentation indicating evidence that Plaintiff Lynn A. Grace is responsible for the debts of his wife.

18. Plaintiff's counsel was told that MRN "was authorized to do so."

19. Plaintiff's counsel has requested written documentation from MRN on numerous occasions, but this has been refused.

20. Defendant MRN has continued to withdraw \$100 per month from the account of Lynn A. Grace even though MRN had been informed that Ethel Grace was deceased and no Proof of Claim had been filed with the Kalamazoo County Probate Court.

21. Under Michigan law, a promise to pay the debt of another must be in writing.

22. None of the alleged debts were from the decedent's last illness.

23. Although Plaintiff has requested on numerous occasions any such promise in writing, none has been received.

24. The actions of Defendant MRN violate the FDCPA, specifically, the following sections:

A. § 807;

B. § 808; and

C. § 813.

25. Plaintiff is entitled to payment of the following damages:

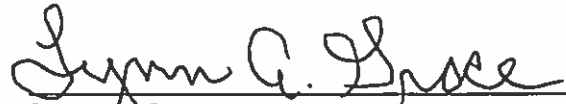
A. Actual damages;

B. Additional damages; and

C. Actual attorney fees and costs.

WHEREFORE, Plaintiff prays for judgment against the Defendant as requested in paragraph 23 herein.

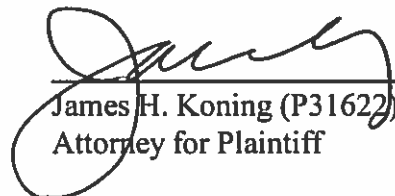
Dated: December 17, 2015


Lynn A. Grace

Respectfully submitted,

KONING & JILEK, P.C.

Dated: December 17, 2015


James H. Koning (P31622)
Attorney for Plaintiff

JURY DEMAND

Plaintiff, Lynn A. Grace, through his counsel, hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38.

Respectfully submitted,

KONING & JILEK, P.C.

Dated: December 17, 2015

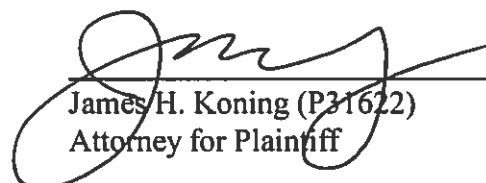

James H. Koning (P31622)
Attorney for Plaintiff

Exhibit 1

MONEY RECOVERY NATIONWIDE
P.O. BOX 13129
LANSING, MI 48901
(800) 541-1370 Fax (517) 622-2661

DATE: 05/19/2014

LIST OF ACCOUNTS

LYNN GRACE
4238 MORELAND ST APT 8
KALAMAZOO, MI 49001-5262

CREDITOR INFORMATION

ACCOUNT #	NAME	PATIENT	LISTED DATE	SERVICE DATE	AMOUNTPAID	BALANCE
277769	BRONSON BATTLE CREEK	GRACE LYNN A	09/28/09	03/13/09	43 16	0 00
TOTAL:						0 00

THIS IS AN ATTEMPT TO COLLECT A DEBT.
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Exhibit 2

NOTICE TO CREDITORS

Decedent's Estate
File No. 20120319DESTATE OF MICHIGAN
PROBATE COURT
COUNTY OF KALAMAZOOSTATE OF MICHIGAN, } SS.
County of KalamazooEstate of Ethel M. Grace, Decedent
Date of birth: 08/16/1947

TO ALL CREDITORS:

NOTICE TO CREDITORS: The decedent,
Ethel M. Grace, died 02/14/2012.Creditors of the decedent are notified that all
claims against the estate will be forever barred
unless presented to Lynn A. Grace, named
personal representative or proposed personal
representative, or to both the probate court at 150
East Crosstown Parkway, Kalamazoo, Michigan
49001 and the named/proposed personal
representative within 4 months after the date of
publication of this notice.

Date: 04/05/2012

Lynn A. Grace
Personal representative
413 W. Michigan Ave.,
Apt. 1, P.O. Box 412
Augusta, MI 49012
(269) 731-3779Sworn and subscribed to before me this 13th
day of April A.D., 2012.My Commission Expires on:
Kalamazoo County, State of Michigan
Bruce Rolfe
Notary PublicLINDA MARIE LONG
Notary Public, Kalamazoo County, MI
My Commission Expires July 4, 2012

ACTING IN KALAMAZOO COUNTY, MI

PRINTERS BILL

Folios \$ 60.00

Affidavit of Publication \$ _____

Total \$ 60.00

Received payment.

James H. Koning (P31622)
Attorney
8080 Moorsbridge Road, Suite 103
Portage, Michigan 49024
(269) 343-1500
15

Exhibit 3

KONING & JILEK, P.C.

Attorneys and Counselors

**8080 Moorsbridge Road, Suite 103
Portage, Michigan 49024**

JAMES H. KONING*
jkoning@koningjilek.com

*Also admitted to practice in Illinois

PHONE (269) 343-1500
FACSIMILE (269) 492-9320

SUSAN C. COLLINS, Paralegal
susan@koningjilek.com

May 12, 2014

VIA FACSIMILE & FIRST-CLASS MAIL

Sharon Miller
Money Recovery Nationwide
8155 Executive Court, Suite 10
Lansing, MI 48917

**Re: Lynn Grace
Ethel M. Grace - DOB: 08/16/1947; DOD: 02/14/2012
MRN Account No. 277769**

Dear Ms. Miller:

In follow up to our two conversations, enclosed are signed authorizations for both Ethel Grace and Lynn Grace. The authorization for Ethel Grace also includes a copy of the Letters of Authority for Lynn Grace being Ethel's personal representative and a final inventory showing there were never any assets in her estate.

In our telephone conversation, you surprised me when you indicated that Ethel's bills have already been fully paid by Lynn and that any remaining balances are for medical care attributed solely to Lynn. I note that the notices you sent were and continue to be addressed to Ethel Grace. I would appreciate receiving documentation outlining the underlying bills for each individual and a payment history by Lynn for those bills, both for Ethel and Lynn.

Lynn informs me that after his conversations with Bronson and your office, he was under the distinct impression that he was responsible for Ethel's bills even though she died and there were no estate assets. You indicated to me that you were aware that Ethel had died. You told me that Lynn was made aware that he was under no legal obligation to pay, but verbally agreed to assume her debt. He disagrees with this factual rendition.

You indicated that you tape record all conversations. With that in mind, I would also appreciate receiving copies of all recorded conversations. If you are able to send these to me via

K&J

May 12, 2014

Page 2

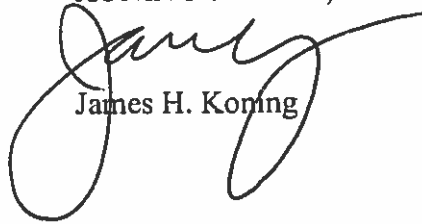
email, that would be appreciated. Since you are basing your collection practices on this verbal approval and since you record all conversations, this should not be an issue.

If I do not receive full compliance with the requests and all other provisions of federal law, including, but not limited to, the Fair Debt Collections Practices Act, suit will be filed in Federal District Court.

Very truly yours,

KONING & JILEK, P.C.

James H. Koning

A handwritten signature in black ink, appearing to read 'James H. Koning', is written over the printed name.

JHK/sc
Enc.

K&J

AUTHORIZATION FOR RELEASE OF INFORMATION

To: Money Recovery Nationwide
8155 Executive Court, Suite 10
Lansing, MI 48917

Re: Lynn A. Grace
MRN Account No. 277769

To Whom It May Concern:

You are hereby authorized and requested to furnish and release to James H. Koning and Koning & Jilek, P.C., or any representative thereof, any and all information regarding the above-mentioned account, including, but not limited to, medical bills and related medical documentation, payment history(ies), audio recordings, and any other reports and/or records pertaining to or in any way related to the above-mentioned account. You are further authorized to discuss the above-noted account, and any other related matter and/or issue with James H. Koning and Koning & Jilek, P.C., or any representative thereof.

I hereby waive any privilege which may exist with respect to said records.


The foregoing authorization shall continue in full force and effect until revoked by me in writing. A photocopy of this authorization shall serve in its stead.

RETURN REQUESTED INFORMATION TO:

James. H. Koning, Esq.
Koning & Jilek, P.C.
8080 Moorsbridge Road, Suite 103
Portage, MI 49024
(269) 343-1500
(269) 492-9320 (fax)

THIS AUTHORIZATION HAS BEEN EXPLAINED TO MY SATISFACTION, AND I FULLY UNDERSTAND IT AND VOLUNTARILY AGREE TO ITS TERMS.

Dated: 5.9.2014


Lynn A. Grace

AUTHORIZATION FOR RELEASE OF INFORMATION

To: Money Recovery Nationwide
8155 Executive Court, Suite 10
Lansing, MI 48917

Re: Ethel M. Grace, Deceased
MRN Account No. 277769

To Whom It May Concern:

You are hereby authorized and requested to furnish and release to James H. Koning and Koning & Jilek, P.C., or any representative thereof, any and all information regarding the above-mentioned account, including, but not limited to, medical bills and related medical documentation, payment history(ies), audio recordings, and any other reports and/or records pertaining to or in any way related to the above-mentioned account. You are further authorized to discuss the above-noted account, and any other related matter and/or issue with James H. Koning and Koning & Jilek, P.C., or any representative thereof.

I hereby waive any privilege which may exist with respect to said records.


The foregoing authorization shall continue in full force and effect until revoked by me in writing. A photocopy of this authorization shall serve in its stead.

RETURN REQUESTED INFORMATION TO:

James. H. Koning, Esq.
Koning & Jilek, P.C.
8080 Moorsbridge Road, Suite 103
Portage, MI 49024
(269) 343-1500
(269) 492-9320 (fax)

THIS AUTHORIZATION HAS BEEN EXPLAINED TO MY SATISFACTION, AND I FULLY UNDERSTAND IT AND VOLUNTARILY AGREE TO ITS TERMS.

Dated: 5-9-2014


Lynn A. Grace, as Personal Representative of
the Estate of Ethel M. Grace, Deceased

Approved, SCAO

JIS CODE: LET

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF KALAMAZOOLETTERS OF AUTHORITY FOR
PERSONAL REPRESENTATIVE

FILE NO.

20120319DE

Estate of ETHEL M. GRACE, Deceased

TO:

Name and address

LYNN A. GRACE

413 WEST MICHIGAN AVENUE, APT. 1
P.O. BOX 412
AUGUSTA, MI 49012

Telephone no.

(269) 731-3779

You have been appointed and qualified as personal representative of the estate on March 23, 2012. You are authorized to perform all acts authorized by law unless exceptions are specified below.

☐ Your authority is limited in the following way:

☐ You have no authority over the estate's real estate or ownership interests in a business entity that you identified on your acceptance of appointment.

☐ Other restrictions or limitations are:

☐ These letters expire: n/a

Date

March 23, 2012

Date



P43358

STEVEN E. BURNHAM, PROBATE REGISTER

SEE NOTICE OF DUTIES ON SECOND PAGE

JAMES H. KONING

P31622

Attorney name (type or print)

Bar no.

8080 MOORSBRIDGE ROAD, SUITE 103

Address

PORTAGE, MICHIGAN 49024

(269) 343-1500

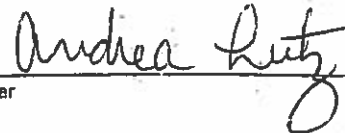
City, state, zip

Telephone no.

I certify that I have compared this copy with the original on file and that it is a correct copy of the original, and on this date, these letters are in full force and effect.

March 26, 2012

Date



Deputy registrar

Do not write below this line - For court use only

KALAMAZOO COUNTY
PROBATE COURT
FILED

MAR 23 2012

JIS CODE: INV

NOTE: Do not use this form if you are a conservator. Use form PC 674. You must serve this completed inventory on all interested persons as required by Michigan Court Rule 5.105 and 5.125.

In the matter of ETHEL M. GRACE, Deceased

LYNN A. GRACE PERSONAL REPRESENTATIVE submit the following
Name (type or print) Title

as a complete and accurate inventory of all the assets of the estate and the fair market valuations as of the

- ☒ date of death (decedent's estate only).
☐ date of qualification as fiduciary (all other estates).

I declare under the penalties of perjury that this inventory has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Attorney signature

JAMES H. KONING

Attorney name (type or print)

8080 MOORSBRIDGE ROAD, SUITE 103

Address

PORTAGE, MICHIGAN 49024

City, state, zip

P31622

Bar no.

(269) 343-1500

Telephone no.

Date _____

John G. Duro

Signature
LYNN A. GRACE

Name (type or print)

4238 MORELAND ST., APT. 8

Address

KALAMAZOO, MICHIGAN 49001

City, state, zip

(269) 350-5991

Telephone no. _____

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

Exhibit 4

KONING & JILEK, P.C.

Attorneys and Counselors

**8080 Moorsbridge Road, Suite 103
Portage, Michigan 49024**

JAMES H. KONING*
jkoning@koningjilek.com

*Also admitted to practice in Illinois

PHONE (269) 343-1500
FACSIMILE (269) 492-9320

SUSAN C. COLLINS, Paralegal
susan@koningjilek.com

November 4, 2015

Money Recovery Nationwide
P.O. Box 13129
Lansing, MI 48901

**Re: Lynn Grace
Ethel M. Grace - DOB: 08/16/1947; DOD: 02/14/2012
MRN Account No. 277769**

To Whom It May Concern:

I am again writing about the above collection issue. In an earlier telephone conversation (sent after the enclosed letter which was sent to you on May 12, 2014), it was my understanding you were going to review the matter and cease collections or contact me. I did not hear from you and assumed no additional billing was to occur. Mr. Grace informs me that has not been the case and you have continued to bill.

Enclosed is a printout from you, dated May 19, 2014, showing that Lynn Grace owed nothing on his account.

My notes reflect that my discussion with Ms. Miller was that she was going to furnish me with a copy of a written guarantee by Lynn Grace or was going to cease collections. I was under the impression that you had ceased collections, but according to the enclosed information which I just received from Lynn Grace, you have continued to deduct \$100 per month.

I believe that the law is clear that a promise to pay the debt of another must be in writing. If you do not have any such authorization in writing, we are entitled to the complete refund of all amounts paid by Lynn Grace allegedly for the bills owed by his wife.



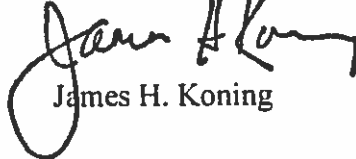
November 4, 2015

Page 2

The continued collections are a violation of federal law unless you have a written guarantee signed by Mr. Grace. Your prompt attention is expected.

Very truly yours,

KONING & JILEK, P.C.



James H. Koning

JHK/sc
Enc.

K&J

Transaction History**Customer:** LYNN A GRACE**Account:** HI/FL/GA Checking #XXXXX5735

Current Balance  Present Balance  Available Less Overdraft  Available Balance  Calendar 
 \$0.00 \$0.00 \$0.00 \$0.00

Showing Tran Code 177 Transactions

Date Posted	Tran Type	Description	\$	Debits(-)	\$	Credits(+)	\$	Balance
08/04/2014	<u>ACH Debit</u>	Money Recovery 8005411370 17		-100.00				
07/02/2014	<u>ACH Debit</u>	Money Recovery 8005411370 17		-100.00				
06/03/2014	<u>ACH Debit</u>	Money Recovery 8005411370 17		-100.00				
05/02/2014	<u>ACH Debit</u>	Money Recovery 8005411370 17		-100.00				
04/02/2014	<u>ACH Debit</u>	Money Recovery 8005411370 16		-100.00				
03/04/2014	<u>ACH Debit</u>	Money Recovery 8005411370 16		-100.00				
02/04/2014	<u>ACH Debit</u>	Money Recovery 8005411370 16		-100.00				
01/03/2014	<u>ACH Debit</u>	Money Recovery 8005411370 16		-100.00				
12/03/2013	<u>ACH Debit</u>	Money Recovery 8005411370 16		-100.00				
11/04/2013	<u>ACH Debit</u>	Money Recovery 8005411370 16		-100.00				

Newer

Transaction History**Customer:** LYNN A GRACE**Account:** HI/FL/GA Check #XXXXXX 735

Current Balance 0 Present Balance 0 Available Less Overdraft 0 Available Balance 0 Calendar
 \$0.00 \$0.00

Showing Tran Code 177 Transactions

Date Posted	Tran Type	Description	\$	Debits(-)	\$	Credits(+)	\$	Balance
10/02/2015	<u>ACH Debit</u>	Money Recovery N Money Reco		-100.00				
09/02/2015	<u>ACH Debit</u>	Money Recovery N Money Reco		-100.00				
08/04/2015	<u>ACH Debit</u>	Money Recovery N Money Reco		-100.00				
07/02/2015	<u>ACH Debit</u>	Money Recovery N Money Reco		-100.00				
06/02/2015	<u>ACH Debit</u>	Money Recovery N Money Reco		-100.00				
05/04/2015	<u>ACH Debit</u>	Money Recovery N Money Reco		-100.00				
04/10/2015	<u>ACH Debit</u>	JACKSON HEWITT PURCHASE		-81.00				
		-89						
04/02/2015	<u>ACH Debit</u>	Money Recovery N Money Reco		-100.00				
03/03/2015	<u>ACH Debit</u>	Money Recovery N Money Reco		-100.00				
		79						
02/03/2015	<u>ACH Debit</u>	Money Recovery 8005411370		-100.00				
		18						
01/05/2015	<u>ACH Debit</u>	Money Recovery 8005411370		-100.00				
		18						
12/31/2014	<u>ACH Debit</u>	AAA CLUB/INSUR ECK0476310		-345.38				
		12						
12/02/2014	<u>ACH Debit</u>	Money Recovery 8005411370		-100.00				
		18						
11/04/2014	<u>ACH Debit</u>	Money Recovery 8005411370		-100.00				
		17						
10/02/2014	<u>ACH Debit</u>	Money Recovery 8005411370		-100.00				
		17						
09/03/2014	<u>ACH Debit</u>	Money Recovery 8005411370		-100.00				
		17						

Older